

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 365/2003

Dated Tuesday this the 1st day of July, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. P.B.Divakaran
S/o Kochuraman
Gramin Dak Sevak Stamp Vendor
Chengannur HPO
Chengannur.
2. P.D.Jayaram
S/o P.B.Divakaran
Substitute Gramin Dak Sevak Stamp Vendor
Chengannur HPO
Chengannur.

Applicants.

(By advocate Mr.M.R.Rajendran Nair)

Versus

1. Union of India represented by
The Secretary
Ministry of Communications
New Delhi.
2. Chief Post Master General
Kerala Circle
Trivandrum.
3. Superintendent of Post Offices
Thiruvalla Division
Thiruvalla.
4. Postmaster
Chengannur HPO
Chengannur.

Respondents.

(By advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 1st July, 2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

First applicant is the original incumbent on the post of Gramin Dak Sevak Stamp Vendor, Chengannur HPO and second applicant who is the son of the first applicant is working as a

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substitute in his place as the first applicant is on long leave on medical grounds. Finding that his (first applicant's) present state of health would not improve and he would not be able to discharge his duties satisfactorily, the first applicant submitted A-3 request for permission to retire on medical invalidation and to grant employment assistance on compassionate grounds to his son. On this request of the Ist applicant, he was, by A-4, told to submit his resignation which the first applicant did not do. While so, purportedly on the basis of a letter of the DG (Post) (R-1), the Superintendent of Post Offices, Thiruvalla Division directed the Postmaster, Chengannur HPO - the 4th respondent herein - to terminate immediately the services of the second applicant as the substitute GD Stamp Vendor. Aggrieved by that, the applicants have jointly filed this application, praying that the impugned order A-1 may be set aside and the respondents be directed to permit the 2nd applicant to continue as the substitute of the 1st applicant so long as he is nominated as the substitute by the first applicant.

2. Respondents seek to justify the impugned order on the ground that the D.G.(Post) in his letter (R-1) dated October 2002 has instructed that substitute arrangement shall not be made for a long period and that as the second applicant has been working for a long period as a substitute, the order issued was in conformity with the R-1 direction and unexceptionable.

3. With the consent of the counsel on either side, we heard the matter for a final disposal. The only question which calls for an answer in this case is whether the impugned order A-1

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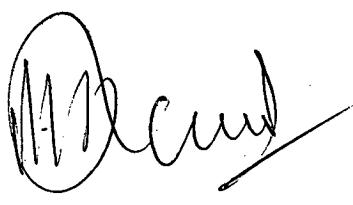
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directing termination of the services of the second applicant as a substitute of the first applicant is sustainable. An identical issue was considered by a Division Bench of this Tribunal in OA 1113/99. Finding that the substitute works at the risk and responsibility of the original incumbent, the original incumbent who, for facilitating grant of leave to him, can nominate a person in whom he has trust, it was held that it would be appropriate that leave to ED Agents should be granted in accordance with the rules without insisting on a change of substitute if the substitute has not been proved unreliable. In this case, there is no case for the respondents that the second applicant as a substitute has been found unreliable or that there is any other reason than that he has been performing his duties as a substitute for a long time. It is up to the respondents to consider the request of the first applicant for his retirement on medical invalidation. In any case, so long as the first applicant remains on leave, nominating the second applicant as his substitute and so long as the second applicant has not been found to be unreliable, we find no justification at all for the termination of the services of the 2nd applicant.

4. In the light of what is stated above, the application is allowed and the impugned order A-1 is set aside with consequential benefits to the applicants.

Dated 1st July, 2003.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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